

BOARD OF APPEALS CASE NO. 5206

*

BEFORE THE

APPLICANTS: Sheridan & Cindy Ciscle

*

ZONING HEARING EXAMINER

REQUEST: Variance to allow the existing garage to exceed the height of the dwelling; 722 W. Ring Factory Road, Bel Air

*

OF HARFORD COUNTY

*

Hearing Advertised

HEARING DATE: February 20, 2002

*

Aegis: 12/26/01 & 1/2/02

Record: 12/28/01 & 1/4/02

*

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicants, Sheridan W. Ciscle and Cindy L. Ciscle, are requesting a variance, pursuant to Section 267-26C(1) of the Harford County Code, to allow an existing detached garage to exceed the height of the principal structure in an Agricultural District.

The subject parcel is located at 722 W. Ring Factory Road, Bel Air, Maryland 21015, in the Third Election District, and is more particularly identified on Tax Map 56, Grid No. 2A, Parcel 153. The parcel contains 7 acres more or less.

The Applicant, Sheridan W. Ciscle, appeared and testified that he and the Co-Applicant, Cindy L. Ciscle, are the owners of the subject property. He stated that he has read the Department of Planning and Zoning Staff Report, and that he has no changes or corrections to the information contained in that report. The witness described his property as a long narrow lot, which is 7 acres in size, and approximately 900 to 1,000 feet deep. The property is improved by a ranch home with attached garages on the left side of the house, and by a two-story detached garage, located approximately 150 feet to the rear of the dwelling. The ranch home, which is the principal structure on Applicants' property, is 20 feet 4 inches in height. The detached garage is 22 feet 4 inches in height.

Case No. 5206 – Sheridan & Cindy Ciscle

According to Mr. Ciscle, the property slopes downward 114 feet from the front property line to the stream at the rear property line. The slope from the road to the existing dwelling is the least severe, falling only 7-1/2 feet. The elevation then drops an additional 23 feet from the house to the front wall of the existing detached garage. Mr. Ciscle introduced an elevation drawing (Applicants' Exhibit 1) which shows the steep terrain of the property between W. Factory Ring Road, and the existing garage. Although the detached garage is actually two feet taller than the existing dwelling, the roof of the dwelling is 7 feet 6 inches higher than the roof of the garage when the two structures are viewed from the side property line, due to the steep topography of the subject property.

Mr. Ciscle testified that his property was recently rezoned Agricultural. Shortly thereafter, he contacted the Department of Planning and Zoning to inquire as to whether he needed a permit to construct a barn on his lot. According to the witness, he was told by the Department that he did not need a permit to construct a barn because of the agricultural zoning. Mr. Ciscle testified that he originally intended to build a structure with a barn style roof, but that at some point the roof design became cost prohibitive. The structure was then changed to its present form, which looks more like a garage because of its inverted V shaped roof. Mr. Ciscle testified that he uses the lower level of the garage to store antique cars, and the upper level for storage of personal property.

The witness stated that he does not believe that the granting of the requested variance will have any adverse impact on neighboring properties because the existing garage is 375 feet from the road, and is not visible from any of the surrounding homes due to the topography. There are also over 219 tall pines between the road and the dwelling, which provide excellent screening, and much of the property is heavily wooded. Two of the four adjacent properties are farms. Many farms in the neighborhood have barns which are taller than the existing houses.

Case No. 5206 – Sheridan & Cindy Ciscle

The witness introduced Attachment 5 of the Staff Report, with the surrounding farms highlighted in yellow, as Applicants' Exhibit 2. He also introduced an aerial photograph of the property showing the property lines outlined in red as Applicants' Exhibit 3, which shows the heavily wooded nature of the surrounding property. Mr. Ciscle testified that the existing garage is compatible with, and similar in size and appearance to other barns and garages commonly found in his neighborhood. The witness introduced a photograph of the existing garage as Applicant's Exhibit 4.

The Applicant then called three adjoining property owners, all of whom testified that they have no objection to the presence or design of the existing garage. Mr. Edwin O. Dove, appeared and testified that his property adjoins the subject property on the left. He stated that he has no objection to the existing garage, and that the new structure is tastefully designed. Ms. Sandy Magnus, testified that she owns the farm across the street from the subject property. She indicated that she approves of the structure, and that she has no problems with the granting of the requested variance. Mr. Robert Frey testified that his property is adjacent to the subject property on the east. He stated that the existing garage is attractive and well built, and that he has no objection to the granting of the requested variance.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified regarding the findings of fact and recommendations made by that agency. Mr. McClune testified that the Department of Planning and Zoning recommended approval of the subject request in its February 12, 2002 Staff Report. Mr. McClune testified that the property is unique to because of its shape and topography. The property slopes severely from the road to the garage. Mr. McClune also stated that the two-foot additional height of the garage is not noticeable because of the slope of the property. The only way that you can actually tell that the garage is higher than the house is to measure the height of the two structures from the ground up.

Case No. 5206 – Sheridan & Cindy Ciscle

CONCLUSION:

The Applicants, Sheridan W. Ciscle and Cindy L. Ciscle, are requesting a variance, pursuant to Section 267-26C(1) of the Harford County Code, to allow an existing detached garage to exceed the height of the principal structure in an Agricultural District.

Section 267-26C(1) of the Harford County Code reads as follows:

- (1) In the AG, RR, R1, R2, R3, R4, and VR Districts, the accessory use or structure shall neither exceed fifty percent (50%) of the square footage of habitable space nor exceed the height of the principal use or structure. This does not apply to agricultural structures, nor does it affect the provisions of Section 267-24, Exceptions and modifications to minimum height requirements. No accessory structure shall be used for living quarters, the storage of contractors' equipment nor the conducting of any business unless otherwise provided in this Part 1."

The Harford County Code permits the granting of variances, stating that:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

The Maryland Court of Special Appeals set forth a two prong test for determining whether a variance should be granted in the case of Cromwell v. Ward, 102 Md. App. 691, (1995). This test can be summarized as follows. First, there must be a determination as to whether there is anything unique about the property for which the variance is being requested. A lot is unique only if there is a finding that a peculiar characteristic or unusual circumstance, relating only to the subject property, causes the zoning ordinance to impact more severely on that property than on surrounding properties. Cromwell, supra, at 721.

Case No. 5206 – Sheridan & Cindy Ciscle

If the subject property is found to be unique, the hearing examiner may proceed to the second prong of the test. The second prong involves a determination as to whether literal enforcement of the zoning ordinance, with regard to the unique property, would result in practical difficulty or unreasonable hardship to the property owner.

The Hearing Examiner finds that the subject property is unique. The property is a long narrow parcel with rolling to steep topography. The elevation of the property drops 114 feet from the road to the rear property line. As stated by the Department of Planning in its Staff Report the property “slopes down from the road and levels in the area of the dwelling. It then slopes gradually towards the rear of the dwelling to the detached garage which is the subject of this case. The area to the rear of the garage is densely wooded and drops off steeply to Winter’s Run.” Thus, the first prong of the Cromwell test has been met.

Having found that the subject property is unique, it must next be determined whether denial of the requested variance would create an unreasonable hardship or practical difficulty for the Applicants. The Hearing Examiner finds that literal enforcement of the Code would result in real hardship to the Applicants in this case by forcing them to remove the existing garage.

Finally, the Hearing Examiner finds that the granting of the requested variance will have no adverse impact on adjacent properties. The garage is 375 feet from the road, and is not visible from surrounding properties due to steep topography, and the presence on the property of tall trees which provide excellent screening. The property is surrounded by farms, and the existing garage is similar in size and appearance to barns commonly found in the neighborhood. Three of the four adjoining property owners testified in support of the Applicants’ request. Each of those witnesses indicated that the existing structure is attractively built, and that it has no adverse impact on their property. Finally, the difference in height between the garage and the existing dwelling can only be determined by physically measuring the height of each structure.

Case No. 5206 – Sheridan & Cindy Ciscle

The Hearing Examiner recommends approval of the Applicants' request subject to the following conditions:

1. That the Applicant obtain all necessary permits and inspections for the existing garage.
2. That the proposed garage shall be used only for Applicants' personal use, and shall not be used for business purposes or for living area.

Date: MARCH 7, 2002

Rebecca A. Bryant
Zoning Hearing Examiner